

**ABRIDGED SUMMARY OF CATEGORICAL USE OF FORCE INCIDENT
AND FINDINGS BY THE LOS ANGELES BOARD OF POLICE COMMISSIONERS**

OFFICER-INVOLVED SHOOTING 057-08

Division	Date	Duty-On ()	Off (X)	Uniform-Yes ()	No (X)
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Outside City	06/08/08				
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Officer Involved in Use of Force	Length of Service
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Officer A	1 year, 11 months
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Reason for Police Contact

Officer A and Witness 1 were walking to a carnival. Subjects 1, 2, 3, and 4 began talking to them like gang members. Officer A identified himself as a Police Officer. Subject 1 began a fight and attempted to take Officer A's gun.

Subject	Deceased ()	Wounded (X)	Non-Hit ()
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Subject 1: Male, 22 years old.			
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Board of Police Commissioners' Review

This is a brief summary designed only to enumerate salient points regarding this Categorical Use of Force incident and does not reflect the entirety of the extensive investigation by the Los Angeles Police Department (Department) or the deliberations by the Board of Police Commissioners (BOPC). In evaluating this matter, the BOPC considered the following: the complete Force Investigation Division investigation (including all of the transcribed statements of witnesses, pertinent suspect criminal history, and addenda items); the relevant Training Evaluation and Management System materials of the involved officers; the Use of Force Review Board recommendations; the report and recommendations of the BOPC of Police; and the report and recommendations of the Inspector General. The Los Angeles Police Department Command Staff presented the matter to the Commission and made itself available for any inquiries by the Commission.

The following incident was adjudicated by the BOPC on March 23, 2010.

Because state law prohibits divulging the identity of police officers in public reports, for ease of reference, the masculine pronouns (he, his, and him) will be used in this report to refer to male or female employees.

Incident Summary

On the evening of June 8, 2008, Police Officer A was off-duty when he and his friend, Witness 1, decided to walk to a carnival.

Note: Officer A was wearing a jersey from a local sports team over a black sweatshirt, grey shorts, and white tennis shoes. Officer A carried his pistol in a holster on his right side, concealed by the jersey. His badge was affixed to his belt in front of his holster.

Note: Witness 1 was aware that Officer A was armed with his pistol. They had planned that if an incident occurred, Witness 1 was to leave the scene, call 911, and provide the operator with the location and circumstances of the incident.

As Officer A and Witness 1 were walking, Witness 1 observed a group of four to five persons (subsequently identified as Subjects 1-4) walking on the sidewalk toward them. As Subject 1 passed by Witness 1, Subject 1 bumped into him. Subject 1 inquired about their gang affiliation.

Officer A was engaged in a conversation with Witness 1 and did not notice the subjects until Witness 1 stopped, turned, and Subject 1 asked about their gang affiliation.

Officer A and Witness 1 were facing northbound, and the subjects were north of them facing southbound. Officer A observed Subject 1 in a white T-shirt approach Witness 1 with his hands in his pockets. Subject 1 was wearing baggy clothing and got in Witness 1's face in an angry demeanor and identified himself as a gang member. Based on Officer A's experience and training, he believed that Witness 1 could have possibly gotten stabbed or injured in some other way.

Officer A then verbally identified himself as a police officer, raised his jersey to expose his badge and pistol, and grabbed the grip of his pistol with his right hand.

Note: According to Subject 1, Officer A did not verbally identify himself as a police officer.

Witness 1 heard Officer A identify himself as a police officer.

Subject 1, using his right hand, immediately struck Officer A in his face and Officer A felt a bit like he had "blacked out" and drew his pistol. Officer A was not unconscious. He heard everything that was going on. He was still standing but going in a backward motion and trying to get his balance. As he was punched, he was able to draw his pistol.

Officer A fell to the ground on his back, tucked his pistol into his chest, and moved into a fetal position to protect his gun.

Meanwhile, Witness 1 was assaulted by Subjects 3 and 4 and engaged in a fist fight with them. Witness 1 knocked Subject 4 to the ground, then disengaged himself from the fight, and went to assist Officer A.

Subject 1 went to the ground with Officer A, attempting to wrestle the handgun away from him. Subject 2 was kicking Officer A in the head. Subject 3 joined Subject 1 and Subject 2 and kicked at Officer A's hands. Subject 3 lost his balance, fell to the ground, and then grabbed a hold of Officer A. Officer A heard someone say to get his gun and that they were going to shoot him.

Note: Officer A recognized the voice making the statements as belonging to Subject 1 due to Subject 1's earlier statements to Witness 1.

Witness 1 observed several subjects on top of Officer A and pulled them off.

After Witness 1 removed the subjects from on top of Officer A, Officer A was able to see Subject 1 laying to the left of him with his hands still holding onto the pistol, attempting to wrestle it from him.

Officer A rose to his knees and Subject 1 rose with him; however, Subject 1 did not let go of the pistol. Officer A then decided to use his body weight to fall back on the ground in an effort to dislodge Subject 1. Officer A moved counterclockwise, causing him and the subject to fall to the ground. Officer A was on top of Subject 1. They fought over the pistol. Subject 1 tilted the barrel of the pistol toward Officer A's chest, and Officer A covered the trigger by placing his finger around the trigger guard. Officer A then managed to point the pistol back in the direction of Subject 1. He pulled the trigger, causing it to fire a round into the subject.

Note: The round struck Subject 1 in his left elbow/arm area.

After being struck, Subject 1 immediately got up and ran eastbound toward two parked vehicles in the parking lot. Officer A stood up and turned in a circle with his pistol pointed outward to counter any additional threats. Officer A observed that the other subjects had also fled and chased after Subject 1. Subject 1 tripped as he rounded the corner of one of the vehicles and fell to the ground. Officer A then pointed his pistol at Subject 1 and ordered him to stop. Subject 1 got back up and ran into the carnival, where Officer A lost sight of him.

Officer A lowered his pistol to a position alongside his right leg, entered the carnival area, and yelled to the crowd that he is a police officer and to stop the subject.

Officer A then observed Subject 3, whom he recognized from the initial confrontation, on the sidewalk and ordered him to stop. Subject 3 ran away, with Officer A following. Officer A caught up to Subject 3, verbally identified himself as a police officer, and pointed his pistol at him. Subject 3 surrendered and sat down on the ground. Officer A

then ordered Subject 3 to lay on the ground and told him not to move. As Subject 3 lay on the ground, Officer A visually scanned the surrounding area for the other subjects.

Meanwhile, Witness 1 had lost sight of Officer A and entered the carnival area to locate him when he observed Subject 1. Subject 1 was standing there and Witness 1 grabbed him. All of a sudden, Subject 2 started socking Witness 1 in the rib.

After he was struck by Subject 2, an unidentified person struck Witness 1 in the jaw. The strike stunned him and caused him to release Subject 1, who fled. Witness 1 then observed Officer A and went to assist him. Officer A asked for a pair of handcuffs and was handed a pair. Officer A then instructed Witness 1 to handcuff Subject 3, which he did.

Note: The person who handed the handcuffs to Officer A was not identified.

Witness 1 has had training in how to handcuff people.

Witness 2, an off-duty Sheriff's Deputy from an outside agency, saw Officer A handcuffing Subject 3.

Note: According to Subject 3, Officer A struck him on this head with his pistol after he was handcuffed.

Officer A dialed 911 from his cellular telephone and was connected with the Los Angeles County Sheriff's Department (LASD).

As Officer A was providing information to the LASD 911 operator, Witness 2 approached Officer A, identified himself, and offered his assistance. Officer A provided Witness 2 with a brief synopsis of the incident, then handed his cellular telephone to Witness 2, and asked him to provide information to the 911 operator. Officer A then instructed Witness 1 to stay with Subject 3 as he and Witness 2 walked toward the sidewalk to look for Subject 1.

Note: According to Officer A, he was approximately 25 to 30 feet away from Subject 3 and Witness 1 as he stood on the sidewalk with Witness 2.

Meanwhile, Subject 1 was driven to the hospital by Subject 4 and Witness 3. LASD deputies arrived at the scene and took Subjects 2 and 3 into custody. During the investigation, LASD deputies learned that Subject 1 was at the hospital being treated for a gunshot wound. LASD deputies responded to the hospital, where they arrested Subjects 1 and 4.

Los Angeles Board of Police Commissioners' Findings

The BOPC reviews each Categorical Use of Force incident based upon the totality of the circumstances, namely all of the facts, evidence, statements, and all other pertinent

material relating to the particular incident. In every case, the BOPC makes specific findings in three areas: Tactics of the involved officer(s); Drawing/Exhibiting/Holstering of a weapon by any involved officer(s); and the Use of Force by any involved officer(s). All incidents are evaluated to identify areas where involved officers can benefit from a tactical debriefing to improve their response to future tactical situations. This is an effort to ensure that all officers benefit from the critical analysis that is applied to each incident as it is reviewed by various levels within the Department and by the BOPC. Based on the BOPC's review of the instant case, the BOPC unanimously made the following findings.

The BOPC recommended the following findings in this case:

A. Tactics

The BOPC found that Officer A's tactics warranted a Tactical Debrief.

B. Drawing/Exhibiting

The BOPC found that Officer A's drawing and exhibiting to be in policy.

C. Lethal Use of Force

The BOPC found that Officer A's Lethal Use of Force to be in policy.

Basis for Findings

In their analysis of the incident, the BOPC identified the following tactical considerations:

A. Tactics

1. Officer A was in a fight for his life and reacted to the subjects' actions; however, once the threat was over, Officer A elected to engage in a foot pursuit while leaving Witness 1 alone. It would have been prudent for Officer A to have remained at the scene and contacted 911 from his cellular telephone that he had in his possession. Officer A's decision to pursue the subjects unnecessarily jeopardized his safety and the safety of the public as evident in the several 911 calls that were generated stating there were gang members fighting with guns.
2. After the OIS, Officer A searched for the outstanding subjects by running around the carnival area with his weapon drawn. Running with a firearm in hand can increase an officer's chance of having an unintentional discharge.
3. Officer A had just been involved in a tactical situation resulting in an OIS and had one of the subjects in custody. Personnel from the LASD were en route; however, Officer A and Witness 2 decided to leave Witness 1 with the handcuffed subject and

attempt to locate Subject 1. It would have been prudent for Officer A to have remained with Witness 1 and the handcuffed subject and wait for the arrival of the LASD Deputies.

Because there was no evidence that immediate action was required, Officer A should have remained with Witness 1 and the handcuffed subject instead of potentially involving himself in another tactical situation by searching for Subject 1 with Witness 2.

The BOPC directed that Officer A attend a Tactical Debrief.

B. Drawing/Exhibiting

According to Officer A, during the confrontation with the gang members, he feared that Witness 1 would possibly be stabbed because Subject 1 was wearing a white baggie T-shirt and had secreted his hand inside his pocket. Officer A formed the opinion that it was necessary for him to identify himself as a police officer. Hoping that by identifying himself, the gang members would disperse and leave them alone. Officer A verbally identified himself as a Los Angeles Police Officer and simultaneously used his left hand to lift his shirt, exposing his police badge and his holstered pistol. Officer A then placed his right hand on the grip of his pistol. Subject 1 looked toward Officer A's right hand and immediately punched him on the left cheek with his right hand. Two other males in the group also began attacking Officer A. As he was punched, Officer A drew his firearm. Although initially it was not his intention to draw, his decision to draw was based on the subjects' actions; therefore, it was reasonable for him to perceive that the situation had escalated to the point where lethal force may become necessary.

The BOPC found Officer A's Drawing/Exhibiting to be in policy.

C. Lethal Use of Force

Officer A – .40 caliber, one round, from a close contact position.

The BOPC determined that Officer A's use of Lethal Force was objectively reasonable to protect himself from the immediate threat of serious bodily injury or death.

The BOPC found Officer A's use of Lethal Force to be in policy.